

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

MARIA MACHACAZ, et al.,

Plaintiffs,

v.

ROYAL PROPERTY HOLDINGS, LLC,

Defendant.

Civil Action No.: 2:18-cv-05554

MEMORANDUM OPINION
AND ORDER

CECCHI, District Judge.

WHEREAS on April 5, 2018, Plaintiffs Maria Machacaz and Santana Chirino Cordova (“Plaintiffs”) filed a complaint against Defendant Royal Property Holdings, LLC (“Defendant”), (ECF No. 1), and on April 13, 2018, Plaintiffs filed a motion for temporary restraining order and for preliminary injunction. (ECF No. 3); and

WHEREAS Plaintiffs allege “[t]his Court has subject matter jurisdiction over this action because it presents a federal question pursuant to 28 U.S.C. § 1331.” (ECF No. 1 ¶ 4); and

WHEREAS Plaintiffs’ complaint alleges two causes of action, one for assault and one for “violation of civil rights under 42 U.S.C. § 1983.” (*Id.* at 4); and

WHEREAS “[i]n order to prevail on a claim under section 1983, a plaintiff must establish (1) the violation of a federally protected constitutional or statutory right, (2) by state action or action under color of law.” *Jordan v. Fox, Rothschild, O’Brien & Frankel*, 20 F.3d 1250, 1264 (3d Cir. 1994); and

WHEREAS because Plaintiffs have brought suit against a private company, Plaintiffs must therefore allege “(1) that [Defendant’s] acts were ‘the exercise of some right or privilege created by the State or by a rule of conduct imposed by the state or by a person for whom the State is responsible’ and (2) that [Defendant] may fairly be said to be [a] state actor[.]” *Angelico v. Lehigh Valley Hosp., Inc.*, 184 F.3d 268, 277 (3d Cir. 1999); and

WHEREAS “[a] person may be found to be a state actor when (1) he is a state official, (2) ‘he has acted together with or has obtained significant aid from state officials,’ or (3) his conduct is, by its nature, chargeable to the state.” *Id.*; and

WHEREAS Plaintiffs’ complaint merely alleges that “Defendant . . . was acting under the color of state law,” and does not allege any facts to support a claim that Defendant is a state actor. (ECF No. 1 ¶ 27); and

WHEREAS accordingly, Plaintiffs’ claim for “violation of civil rights under 42 U.S.C. § 1983” must be dismissed. *See Taylor v. Union Cty. Corr. Facility*, No. 02-0812, 2016 WL 373938, at *2 (D.N.J. Jan. 29, 2016); and

WHEREAS as Plaintiffs fail to state a cognizable federal claim, the Court does not have federal question subject matter jurisdiction under 28 U.S.C. § 1331; and

WHEREAS the Court also does not have diversity subject matter jurisdiction under 28 U.S.C. § 1332 over Plaintiffs’ assault claim, as Plaintiffs allege that they “are citizens and domiciled in . . . New Jersey,” and that “Defendant . . . is an investment New Jersey limited liability corporation with its principal place of business” in New Jersey. (ECF No. 1 ¶¶ 1, 3).

Accordingly, IT IS on this 19 day of April, 2018:

ORDERED that Plaintiffs’ complaint, (ECF No. 1), is hereby **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction, and Plaintiffs’ motion for temporary restraining order and for preliminary injunction, (ECF No. 3), is hereby **ADMINISTRATIVELY TERMINATED as MOOT**; and it is further

ORDERED that the Clerk shall send a copy of this Order to Plaintiffs by regular mail, and shall **CLOSE** the file.



CLAIRE C. CECCHI, U.S.D.J.